IN THE HIGH COURT OF PUNJAB & HARYANA AT CHANDIGARH

RSA No. 3780 of 2006
Date of decision : 16.4.2007.

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Parties Name

Bani Singh Yadav

..... appellant

vs.

State of Haryana

.....Respondent

Coram: Hon'ble Mr. Justice S.N. Aggarwal

Present: Sh. Amit Jain, Advocate
for the appellant

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S.N. Aggarwal, J.

The appellant passed the Matriculation examination in the year 1956 and his date of birth was recorded in the Matriculation certificate as 10.5.1937. He joined the military service, where he served for about 11 years. Thereafter he joined the Haryana Civil Secretariat on 22.9.1969 and he was to retire on 31.5.1995. Prior to 31.5.1995, the appellant came to know that his actual date of birth was 12.12.1942. He got a birth certificate dated 13.7.1993 issued from the Additional District Registrar (Births and Deaths)–cum-District Health Officer, Rewari, showing his date of birth as 12.12.1942. Accordingly, he filed representations dated 25.11.1993,

28.1.1994, 24.3.1994 and 18.4.1994 to his employers for the correction in his date of birth. But the said representations were rejected on 23.2.1994 and 22.5.1995 and the appellant was retired from service with effect from 31.5.1995. Accordingly, the appellant filed a civil suit for declaration that his date of birth was 12.12.1942 and he was entitled to correction in his date of birth.

The said suit was contested by the respondent. Issues were framed.

The parties led the evidence. The said suit was dismissed by the learned trial Court vide judgment and decree dated 6.6.2005.

The appellant filed the appeal. The learned Lower Appellate Court upheld the findings of fact recorded by the learned trial court and dismissed the appeal vide judgment and decree dated 19.8.2006.

Hence, the present appeal.

The submission of the learned counsel for the appellant was that since the claim of the appellant was based on the birth certificate dated 13.7.1993 issued by the Additional District Registrar (Births and Deaths)–cum-District Health Officer, Rewari, therefore, the respondent was duty bound to record the correction in his date of birth and the learned Courts below have gone wrong in not appreciating the legal implications.

This submission has been considered.

It has to be noticed that the date of birth of the appellant was recorded in the Matriculation certificate as 10.5.1937. With the same date of birth he entered the military service and retired after rendering 11 years service. With the same date of birth i.e. 10.5.1937 he joined

the service in Haryana Civil Secretariat on 22.9.1969 and remained in service for more than 24 years without making a claim that his date of birth, as given in the Matriculation certificate, was incorrect. Only about 2 years prior to his retirement on 31.5.1995, the appellant started making claims that his date of birth was 12.12.1942. This conduct of the appellant himself restrains him from asserting a different date of birth than the date of birth recorded in his Matriculation certificate.

Secondly, the claim for correction in his date of birth made by the appellant is highly belated and is liable to be defeated on this ground alone.

Thirdly, the version of the appellant is highly unbelievable. According to him, the birth certificate dated 13.7.1993 was in the name of Har Chand s/o Sedhu Ram s/o Late Hit Lal. The appellant had nowhere made any claim prior to his application for correction in date of birth that the appellant was also known as Har Chand. He invented a story after he laid his hands on the birth certificate dated 13.7.1993 that he was also known as Har Chand s/o Sedhu Ram. Such fictitious stories cannot be made the basis of a claim for correction in the date of birth.

The version of the appellant is also unbelievable because, if his date of birth is taken to be 12.12.1942, then he was only 13 years and 10 months at the time of passing of his Matriculation because he had joined the military service on 25.10.1956 after having passed the Matriculation. This also falsifies the claim of the appellant.

Moreover, both the Courts below have recorded a concurrent

finding of fact against the appellant.

In view of the discussion held above, this Court finds no ground to interfere with the findings of fact recorded by the learned Courts below.

No merits. Dismissed.

(S.N.Aggarwal)
Judge

16.4.2007.
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